

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE No. 8:19-mj-2237-T-TGW

DANIEL MCMAHON

ORDER OF DETENTION

THIS CAUSE came to be heard upon the defendant's Motion for Pretrial Release (Doc. 5), which was filed after a requested continuance of the defendant's detention hearing. Because I find clear and convincing evidence that the defendant presents a danger to the safety of an individual and to the community, he should be detained without bail.

The Government requested detention pursuant to 18 U.S.C. 3142(f)(1)(A) involving a crime of violence. Contrary to the defendant's argument, the charge in Count Three, which alleges the transmission in interstate commerce of a communication containing a threat to injure an individual, constitutes a crime of violence. A "crime of violence" is defined in 18 U.S.C. 16(a) as an offense that has as an element the threatened use of physical force against a person. Count Three falls into that category.

To detain the defendant on the basis of a danger to an individual, the government must make a showing by clear and convincing evidence. The government presented evidence showing that the defendant has a mentally unstable hatred of blacks, Jews, and gays, as the defendant's mother told an FBI Task Force agent. This was further confirmed by the defendant's vile Internet postings. Those posting reflect an irrational view of those groups. Included among the postings were comments by the defendant commending mass murderers.

The defendant also possessed a number of firearms, thereby demonstrating that the risk of dangerousness is real. There was some dispute whether the FBI had seized all of the defendant's firearms, but the evidence showed the defendant clearly has the opportunity to obtain firearms from various sources.

At this point, the defendant's irrational hatred of blacks, Jews, and gays, along with his ability to obtain firearms, presents a clear and convincing danger that his mental instability will cause him to engage in acts of violence. Accordingly, the defendant should be detained.

It is, therefore, upon consideration,

ORDERED:


1. That the defendant DANIEL MCMAHON shall be **DETAINED** without bail.

2. That the defendant is hereby **COMMITTED** to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal.

3. That the defendant shall be afforded reasonable opportunity for private consultation with counsel.

4. That the person in charge of the corrections facility in which the defendant is confined shall deliver the defendant to the United States Marshal for the purpose of appearing in court.

DONE and ORDERED at Tampa, Florida, this 24th day of September, 2019.



THOMAS G. WILSON
UNITED STATES MAGISTRATE JUDGE